IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6364 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

VINUBHAI KALUBHAI KOLI

Versus

STATE OF GUJARAT

Appearance:

MS JYOTSNA PATEL FOR MS SUBHADRA G PATEL for Petitioner

MR HL JANI LD. AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 18/02/2000

ORAL JUDGEMENT

This Special Civil Application is directed against the detention order dtd.22/7/99 passed by the Police Commissioner, Rajkot City, detaining him under the Prevention of Anti-social Activities Act, 1985. The petitioner is under detention at Baroda Central Jail,

Baroda as ordered by the detaining authority. The grounds of detention enclosed with the detention order show that four cases registered against the petitioner at B-Division Police Station, Rajkot City under the Prohibition Act during the period 22nd August, 1997 to 13th July, 1999. Out of these four cases, three cases are pending while in 4th case, investigation was still going on when the detention order was passed. The allegation against the petitioner is that he has been involved in the business of unauthorised liquor in association with his wife Manjuben. That he brings country liquor from out side and sales the same. The detaining authority has recorded that the petitioner is engaged in the anti-social activities and to deter him from continuing such activity, it is necessary to detain him and the measures with regards to extradition are not possible as criminal cases are pending, even if during the period when he is bailed out in the criminal cases he continues with the such anti-social activities.

2. Learned A.P.P. Mr. Jani has pointed out that representation of the petitioner against the detention order has already been rejected by the State of Gujarat on 10th December, 1999 and the detention order has already been confirmed by the Board on 29th August, 1999.

3. The learned counsel for the petitioner submitted that it is not at all a case of breach of public order. Learned A.P.P. Mr. Jani failed to show that as to how the grounds on which the petitioner has been detained constitute a case of breach of public order. According to the several decisions of Supreme Court, it is clear that even if all the allegations as have been levelled against the petitioner and grounds on which he has been detained are taken tobe correct, on their face value, no case of breach of public order is made out. It is at the most a case of breach of law and order. Under the provisions of the Gujarat Prevention of Anti-social Activities Act, 1985, the detention can be ordered only if the activities of the petitioner are prejudicial to the public order.

4. In the facts of this case, no case of breach of public order exists. The impugned order of detention as has been passed on 22nd July, 1999, can not be sustained. The same is hereby quashed and set aside. It is directed that the petitioner detenu Vinodbhai Kalubhai Koli be released forthwith, if not required to be detained under any detention order or in any other criminal case. The Special Civil Application is allowed. Rule is made absolute.

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